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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,717	07/26/2002	Gunter Windel	740-X02-011	4657
27317	7590	11/23/2005	EXAMINER	
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO 21355 EAST DIXIE HIGHWAY SUITE 115 MIAMI, FL 33180			SPISICH, MARK	
		ART UNIT		PAPER NUMBER
				1744

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/088,717	WINDEL, GUNTER	
	Examiner Mark Spisich	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 17-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 17-26,32 and 38 is/are rejected.
7) Claim(s) 27-31 and 33-37 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 September 2005 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17,20,21,23-25 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Crotts (USP 4,815,158). The patent to Crotts discloses a washing device (2) mounted on a shaft (3) and comprising a plurality of bristle (5) and felt-like (column 2, line 43) strip (8,9) wash elements wherein the two strip elements in fig 3 are both circumferentially spaced as well as being offset along the longitudinal axis of the shaft. The strip element may be approximately equal to or **slightly less than** the length of the bristles (column 2, lines 51-53). Given the known properties of felt strips and bristles for use in car washes, it would not be unreasonable to assume that the bristles are more coarse than the strip. #4 in fig 2 reasonably reads on the "groove rings" as defined in

claim 25. With regard to the "groups" of bristles, a group could be a single row of tufts adjacent the felt strip (7) on either side thereof. With regard to the phrase "independently positioned on a periphery of the washing device" (claim 17, lines 4-5), each of the strips (7) and any one row of bristles (5) on the device of Crotts are independently positioned on the device.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 26 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crotts (USP 4,815,158). The patent to Crotts discloses the invention substantially as claimed with the exception of specifying the bristle material and the length difference between the bristle and strip members. With regard to claim 26, the materials recited therein are well known plastic materials known to be useful as brush bristles and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. A the length of the bristles is about 2 feet (column 2, line 35), a length difference of 5 cm is believed to be an obvious modification within the basic teaching of Crotts (see column 2, line 52).

5. Claims 18,19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crotts (USP 4,815,158) in view of Zigerlig (USP 5,884,356). The patent to Crotts

discloses the invention substantially as claimed with the exception of the strip member being a closed cell (polyethylene) foam and including a number of slits (4i). The patent to Zigerlig discloses a strip member (4) for use in a car washing device which is of a closed cell foam (column 3, lines 5-12). It would have been obvious to one of ordinary skill to have modified the strip member as such to reduce water absorption into the strips.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crotts (USP 4,815,158) in view of Belanger et al (USP 5,813,076). The patent to Crotts discloses a felt strip member and fails only to disclose the slits. The patent to Belanger discloses a felt strip (16) (column 4, lines 18-22) which also includes slits (24). It would have been obvious to one of ordinary skill to have provided slits in the sheet members of Crotts as such to that the sheet would better conform to the shape of a vehicle.

Allowable Subject Matter

7. Claims 27-31 and 33-37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. **SUGGESTION:** In addition to the above, applicant may wish to recite (1) that "at least two of the plurality of strip wash elements are located in cross-section of the device perpendicular to the axis of the shaft; or (2) that each of the bristle wash element and the strip wash elements are SECURED IN the same element about the periphery of the device (this would be admittedly more difficult to claim).

Response to Arguments

9. Applicant's arguments filed 22 September 2005 have been fully considered but they are not persuasive. The crux of applicant's argument pertains to the recitation in claim 17 of "**independently positioned on a periphery** of the washing device" (lines 4-5). Applicant takes the position with regard to the patent to Crotts that the "bristle element area" is the entire strip (4) with the bristles (5) extending therefrom and further wherein the strip(s) (7) are directly secured to the shaft (3) at the same point (by the pin 6, see fig 2). The claim language recited in claim 17 is, in the view of the examiner, broader than that as argued by applicant. It is felt that each row of tufts (5) on the brush strip (4) defines an individual bristle element area positioned on the device at a portion thereof independent of the strip wash element (7).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich
Primary Examiner
Art Unit 1744

MS